

COMPTROLLER GENERAL SOUTH CAROLINA.

MEMORIAL

OF THE

COMPTROLLER GENERAL OF S. CAROLINA,

PRAYING THAT CERTAIN BALANCES DUE FOR

MILITARY WORKS AND THE PURCHASE OF ARMS,

DURING THE LATE WAR,

MAY BE PAID, WITH INTEREST,

TO THE

STATE OF SOUTH CAROLINA.

JANUARY 3, 1828.

Referred to the Committee on Military Affairs.

WASHINGTON :

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1828.



MEMORIAL.

To the Honorable the President and Members of the Senate, and Speaker and Members of the House of Representatives of the Congress of the United States:

The Memorial of the undersigned, for, and in behalf of, the State of South Carolina, sheweth :

That, for several years past, the State has made continual application, at the proper Departments of the National Government, for the adjustment of those claims which result from her disbursement for National defence during the late war. We regret to say that she has been unsuccessful, and that a large portion of her accounts remain unsettled, nor are they like to be settled, otherwise than by the intervention of Congress. The State has, therefore, determined to bring the question before that body, and relies, with implicit confidence, on being refunded the money which she advanced at the hour of their utmost need ; and, in order that the grounds of our application may be distinctly understood, we shall, in as few words as possible, recapitulate the history of the transaction.

During the progress of the late war with Great Britain, the funds of the National Government had become so exhausted that there was a total inability, on her part, to extend that protection to many parts of her maritime frontier, which the crisis demanded. In this situation she was compelled to rely, not only on the assistance of States, but of corporations and individuals. South Carolina had been called on for her proportion of taxes, both direct and indirect, for the purpose of carrying on this war, and it had been promptly advanced. The money was borrowed, and turned over to the officers of the General Government, and it is a well known fact, that, in 1814, at the requisition of General Pinckney, the State advanced her quota of direct tax long before it was imposed by Congress. Under these circumstances, it surely was not too much for the State to expect, on her part, that protection from the General Government which the Constitution guaranteed. But what is the history of the facts ? The enemy appeared upon our coasts ; her ships of war were riding in our waters ; and, when all eyes were turned to the seat of the National Government, anxiously looking for that protection for which we had paid, and which the Federal compact guaranteed to us, it was suddenly ascertained that the funds of the nation were exhausted, and that we must look to our own defence. As self-preservation is the first law of nature, it at once became the duty of the State to take such measures as would save her from the plunder, carnage, and conflagration, with which she was threatened. No agent was sent to Washington to

wring from the poverty of the Union a money-making bargain ; nor was a *previous promise* of refunding both principal and interest made a *sine qua non* to drawing from the State her utmost energies in support of the Union, in this its trying hour. South Carolina, acting in honor herself, disdained to doubt the honor, much less the justice, of the nation. She well knew that where a debt was contracted, a promise to pay was unnecessary, in order to impose a moral obligation to discharge it ; that the very fact that a promise was given, implied, necessarily, that a previous obligation existed, and that as promises were made to others, who, under precisely similar circumstances, advanced money in support of the war, that, with them, she, also, must be paid. We need not say that the failure to protect South Carolina, was a failure of compact on the part of the United States ; nor need we repeat that where a party to a compact, for any special purpose, fails to comply with his part of the requisition, that he is answerable to the other party for the damages or expenses resulting. These are axioms in the code of justice between men, and are equally applicable to the transactions of States. Under these impressions, and supported by these principles, the State proceeded to take such steps, for her defence, as the crisis demanded ; and, in so doing, expended no money beyond what was indispensably necessary. Owing to the patriotism and energy of her citizens, she succeeded in warding off the threatened danger ; and, when the war had passed away, prepared her accounts for adjustment at the National Treasury. Here it may not be improper to observe, that the State made large disbursements for defence during that war, and for which she never expects remuneration. At the close of the war, Commissioners were appointed, by the Legislature, for the purpose of selecting such accounts, with their vouchers, as were properly chargeable upon the General Government, and, under their direction, the claims which have been presented at the Departments in Washington, were prepared. They carefully excluded all disbursements that were made by the State that were not of that character, which, under existing circumstances, the General Government were bound to make. In addition to this, there is another account amounting to more than 25,000 dollars, that the State has never been able to present for adjustment, from the fact, that, by the death of the Commissary General of Purchases, the papers have been *lost*. The accounts, therefore, that have been presented for settlement, form only a portion of the moneys actually expended by the State in that war, and are all founded on services either originally ordered, or since recognized, by the War Department ; and yet these accounts, for expenditures fairly and *bona fide* made in the performances of services that belonged peculiarly to the General Government, have been trimmed down and curtailed more than one hundred thousand dollars. The State owes it to herself to say, that she expects an equitable settlement of the balance of these accounts, and Congress owes it to national justice, and national honor, that she should not be disappointed.

In addition to this claim for unpaid balances, there is another to which the State has an incontrovertible right, and which we cannot

believe will be denied. We allude to the interest on the moneys advanced during that war. In the first place, it will be conceded that the use of money cannot be obtained without interest. The United States themselves have settled this position by issuing their own notes *bearing interest*, and throwing them into market, in order to obtain money, and this, too, at the very period of time when the advances were made by South Carolina. The General Government were not only willing to obtain money on these terms, but they went further, and sold their notes, in many instances, greatly below par. Nor was this all; but it was even stipulated that the money, thus obtained, should be expended for the benefit of the parties advancing it, and in defence of their own particular section of the Union. The moneys obtained from New York and Pennsylvania, and from the corporations of New York, Philadelphia, and many others, was all obtained on these terms, (see the letters published with the report of the Secretary of War, of the 27th of April, 1824,) and, for these advances, the General Government promised, and have long since paid, the *interest*. In favor of these payments, however, it is alleged, that there was a previous promise, and, therefore, the Government was bound to pay. Had South Carolina sent an Agent to Washington, she, too, would have had a promise. She could not have been refused, if all were to have the same measure of justice meted out to them. The advances were precisely of the same character. In each case the money was advanced by the parties interested in the defence, in consequence of the failure of the General Government to extend that protection which the crises demanded. In each case the money was expended in the protection of their own particular section of the Union; and the only point of difference is, that, in the one case, the precaution was taken of requiring a previous promise; and, in the other, the national faith was trusted. It surely will not now be contended that because South Carolina reposed with confidence upon the justice and good faith of the nation, that, therefore, she is to have less of national justice than those who refused to trust. Others have either had more than justice, or South Carolina less; and the very fact that the Government gave promises for the payment of interest to those who applied, is conclusive evidence that money could not be obtained without it, and that it was right and just that it should be paid; and will the nation now permit herself to be insulted by the argument, that she has not a sufficient sense of moral obligation to perform what is *just*, unless she has previously bound herself to do so by *promise*?

The settlement, however, of the Virginia claims, as it appears to us, absolutely supercedes the necessity of further urging the claims of South Carolina on this point; there, interest has been paid without the previous promise, and is South Carolina yet to be refused? The distinction urged in favor of Virginia, that she is entitled to interest because she borrowed, and paid an interest herself, is untenable in law or equity. To require a creditor to show how he came by his money, in order to his receiving an interest from them who have had the use of it, surely cannot be seriously urged. Could it be main-

tained in a court of justice? Is it maintained by any writer in public law? Is it not in direct opposition to those laws and axioms of justice that regulate the intercourse of men? And is it not true, that what is not justice between men, is not justice between States? Mr. Monroe, in his message to Congress, on this point, says, "that it need scarcely be remarked, that, where a State advances money for the use of the General Government, for a purpose authorized by it, the claim for interest on the amount thus advanced, which has been paid by the State, is *reasonable and just*;" and he further observes, "that the claim, in his opinion, is *equally well founded* when a State advances money, which it has in its *Treasury*, or which it has received by taxes, to meet the current demand;" and concludes by strongly recommending to Congress to make provision for claims of this kind. To attempt to prove that the opinion here advanced by President Monroe, is correct, would be an act of supererogation to all persons in the least acquainted with the money transactions of the present day. That money cannot be obtained without interest, is too notorious to require either argument or proof. But there is another view of our claim for interest which we wish to present, and which we do to meet the possible, and, what appears to us, very remote contingency of Congress adhering to what is called the *rule* established in the case of Virginia. It is true, South Carolina did not pay an interest to a *third person*, on the sums which she advanced to the United States during the war, but it is equally true that she lost an interest not of six, but at least of twelve per cent. on those advances. The funds of the State were in the vaults of a public incorporated bank, where they had been placed, for the purpose of making an interest to the State, and where they were making, and have made, not six but at least 12 per cent., as can be shown by the official documents of the institution. From this bank the money in question was taken for the United States. Had the State borrowed from another bank, there would have been no difficulty in the case; even according to the Virginia rule, we would have received back our six per cent., and saved another six per cent., which we lose, even if successful in the present application. Now we would respectfully ask what justice there can be in the rule which determines to pay in one of these cases, and not in the other? And what have the United States to gain by adhering to the rule in question? They may deprive South Carolina of her present demands; may compel her to regret that she ever trusted to the national faith; that she did not send an agent to Washington to require a previous promise; but this is all: for, in all future periods, when circumstances of the kind again occur, neither South Carolina nor others, if they should not even be discouraged from advancing funds at all, will ever be simple enough to advance their own; but go into the market and borrow, and then, according to their own rule, the United States must pay the interest. This claim for interest, therefore, together with the balances of unpaid accounts are respectfully presented to the consideration of Congress by the State of South Carolina, with the same confidence in their justice

that she reposed when the money was advanced in their hour of need. The rigid and unyielding rules of the Departments have, in more than one instance, made it necessary for Congress to pass laws, settling, on equitable principles, claims of this character. And it cannot be a very consoling reflection to those who are the real friends of our Union, that the States, after having surrendered the power, and the means of making and carrying on war, should, when the hour of danger comes, have to defend themselves, and afterwards, for years, become petitioners at the doors of the Departments, or of Congress Hall, for the settlement of their accounts. The nation owes it to her own honor, as well as to the dignity of the States, that these things shall not be permitted.

Respectfully submitted, by

ALEXANDER SPEER,

Comptroller General of South Carolina.

